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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,433	12/28/2001	William L. Jorgenson	50135101-8	9587
26453	7590	02/13/2004	EXAMINER	
BAKER & MCKENZIE 805 THIRD AVENUE NEW YORK, NY 10022				MCQUELLAN, JAMES S
ART UNIT		PAPER NUMBER		
		3627		

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/033,433	JORGENSEN ET AL.
	Examiner James S McClellan	Art Unit 3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 December 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-25 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Amendment

1. Applicant's submittal of an amendment was entered on December 15, 2003, wherein:
 - claims 1-25 are pending;
 - claims 5, 9, 13, and 18 have been amended; and
 - claims 19-25 have been added.

Information Disclosure Statement

2. Applicant's submission of an electronic IDS on 11/6/03 is acknowledged and a signed copy of the electronic IDS statement is attached to this office action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-25 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,478,990 (Montanari et al.).

Regarding **claim 1**, Montanari et al. discloses a tracking method for a supply chain having at least first stage and a second stage, the method comprising: receiving first stage information (see column 3, lines 41-43; for example: raising) and second stage information (see column 3, lines 41-43; for example: fabricating), the first stage information and the second stage

information input at the second stage (see column 10, lines 30-32, “a TN can be assigned at anytime”); processing the first stage information and the second stage information so that the first stage is associated with the second stage information (see column 3, lines 49-54); and storing the first stage information and the second stage information in a database (see column 6, lines 10-13), wherein the stored first stage information and the stored second stage information are at least accessible at the second stage (see column 8, lines 35-46); **[claim 2]** the stored first stage information and the stored second stage information are accessible at the second stage and at least one successive stage in the supply chain (see column 8, lines 35-46); **[claim 3]** the first stage is a producer stage (see column 8, lines 20-34, “rasier”) and the second stage is a processing stage (see column 8, lines 20-34, “fabricator”); **[claim 4]** the first stage information includes at least one of producer name (see column 10, lines 20-24, “prior owners”), producer address, producer phone number and inventory information (see column 4, lines 43-53, “weight of the product...nutritional information”); **[claim 5]** the first stage information includes inventory information and the inventory information includes at least one of crop type, crop variety, crop moisture, protein and test weight(see column 4, lines 43-53, “weight of the product...nutritional information”); **[claim 6]** the second stage information includes at least one of planning data, storage data, milling data, packaging data, data indicative of yields in production (see column 6, line 30, “production history”), finished product storage data and shipping data; **[claim 7]** the first stage information is input at the second stage because the first stage is a non-participant in a transactional supply chain system and the second stage is a participant in the transactional supply chain system (see column 10, lines 30-32, “a TN can be assigned at anytime”).

Regarding **claim 8**, Montanari et al. discloses a tracking method for a supply chain having at least a first stage (see column 3, lines 41-43; for example: raising) and a second stage (see column 3, lines 41-43; for example: fabricating), the method comprising: receiving first stage agricultural information and second stage agricultural information, the first stage agricultural information and the second stage agricultural information input at the second stage (see column 10, lines 30-32, “a TN can be assigned at anytime”); processing the first stage agricultural information and the second stage agricultural information so that the first stage agricultural information is associated with the second stage agricultural information (see column 3, lines 49-54); and storing the first stage agricultural information and the second stage agricultural information in a database (see column 6, lines 10-13), wherein the stored first stage agricultural information and the stored second stage agricultural information are at least accessible at the second stage and at least one successive stage in the supply chain (see column 8, lines 35-46), and the first stage is one of a producer stage and a processing stage (see column 8, lines 20-34, “rasier”), and the second stage is one of a processing stage, a storage stage and a manufacturing stage (see column 8, lines 20-34, “fabricator”).

Regarding **claim 9**, Montanari et al. discloses a tracking method for a non-linear supply chain, the method comprising: recording a history of a first item (for example, grains, see column 4, line 26) traversing a first path of the non-linear supply chain (see column 4, lines 53-60, wherein the byproduct are non-linear and multi-output); recording available inventory information associated with the first item at a stage along the first path (see column 11, lines 26-31); recording a history of a second item (for example, vegetables, see column 4, line 25) traversing a second path of the non-linear supply chain; recording available inventory

information associated with the second item at a stage along the second path ,wherein the first path and the second path are a first output and a second output, respectively, of a multi-output stage in the non-linear supply chain, and inventory is controlled at a stage subsequent to one of the stage along the first path and the stage along the second path (see column 12, lines 1-5) according to one of the recorded available inventory information associated with the first item and the recorded available inventory information associated with the second item, respectively; **[claim 10]** the first path includes at least one multi-output stage (it is inherent that Montanari et al. is capable of and would be used on non-linear and multi-output chains), the first item resulting from one of a plurality of outputs of the multi-output stage along the first path; **[claim 11]** the second path includes at least one multi-output stage, the second item resulting from one of a plurality of outputs 25 of the multi-output stage along the second path; **[claim 12]** recording the history of the first item includes associating first information applying to a stage of the non-linear supply chain with the first item, the first information including at least one of quantity information , performance information (see column 6,line 30, “production history) and quality information, and associating second information applying to another stage with the first item, the second information including at least one of quantity information, performance information (see column 6,line 30, “production history)and quality information; **[claim 13]** the other stage is one of the multi-output stage and the stage along the first path; **[claim 14]** recording the history of the second item includes associating first information applying to a stage of the non-linear supply chain with the second item, the first information including at least one of quantity information, performance information (see column 6,line 30, “production history) and quality information, and associating second information applying to another stage with the second item, the second

information including at least one of quantity information, performance information (see column 6,line 30, “production history) and quality information; **[claim 15]** recording the history of the first item includes associating information applying to a stage of the non linear supply chain with the first item, the information including at least one of quantity information, performance information (see column 6,line 30, “production history) and quality information and, wherein the recording of the history of the second item includes associating the information applying to the stage of the non-linear supply chain with the second item; **[claim 16]** recording the history of the first item includes associating first information applying to a stage of the non-linear supply chain with the first item, the first information including at least one of quantity information, performance information (see column 6,line 30, “production history) and quality information and associating second information applying to another stage with the first item, the second information including at least one of quantity information, performance information (see column 6,line 30, “production history) and quality information, and wherein the recording of the history of the second item includes associating the first information applying to the stage of the non-linear supply chain with the second item and associating the second information applying to the other stage with the second item; **[claim 17]** transmitting the first information and the second information to at least one individual of a plurality of individuals within or outside the non-linear supply chain, the first information and the second information informing the at least one individual about the history of at least the first item (see column 3, lines 29-30, “third party verifiers”); **[claims 19 and 20]** the stage is one of the multi-output stage and the stage along the first path (see column 11 lines 26-31); **[claim 21]** the other stage is one of the multi-output stage

and the stage along the second path (see column 12, line 1-5); and [claim 22] the stage is the multi-output stage; [claim 23] one of the stage and the other stage is the multi-output stage.

Regarding **claim 18**, Montanari et al. discloses a tracking method for a non-linear supply chain, the method comprising: recording a history of a first item (for example, “grains”) traversing a first path of the non-linear supply chain by associating first information applying to a first stage of the non-linear supply chain with the first item, the first path including the first stage (growing) and a second stage (fabricating) and the first information including at least one of quantity information, performance information (see column 6, line 30, “production history) and quality information, and associating second information applying to the second stage with the first item, the second information including at least one of quantity information, performance information (see column 6, line 30, “production history) and quality information; recording available inventory information associated with the first item at one of the first stage and the second stage (see column 11, lines 26-31); recording a history of a second item traversing a second path of the non-linear supply chain by associating the first information applying to the first stage of the non-linear supply chain with the second item, the second path including the first stage and a third stage (distribution), and associating third information applying to the third stage with the second item, the third information including at least one of quantity information, performance information (see column 6, line 30, “production history) and quality information; recording available inventory information associated with the second item at one of the first stage and the third stage (see column 14, lines 29-34); and transmitting the first information, the second information and the third information to at least one individual of a plurality of individuals within or outside the non-linear supply chain, the first information, the second

information and the third information informing the at least one individual about the history of the first item and the second item, wherein the first stage is a multi-output stage having at least two outputs, and inventory is controlled at a stage subsequent to one of the first stage, the second stage and the third stage (see column 14, lines 29-34 and column 15, lines 20-23) according to one of the recorded available inventory information associated with the first item, the recorded available inventory information associated with the second item, and the recorded available inventory information associated with the third item, respectively.

Regarding claims 24 and 25, Montanari et al. discloses a tracking method for non-linear supply chain as set forth in detail above.

Response to Arguments

5. Applicant's arguments filed December 15, 2003 have been fully considered but they are not persuasive.

On page 12, second paragraph, Applicant notes that the disclosure has been amended to overcome the objection to the specification. The previous objection to the specification is withdrawn.

On page 12, third paragraph, Applicant notes that claim 18 has been amended to overcome the objection to the claim. The previous objection to claim 18 is withdrawn.

On page 12, fourth paragraph, Applicant notes that claim 5 has been amended to overcome the 35 U.S.C. § 112 rejection. The previous 35 U.S.C. § 112 rejection of the claim 5 is withdrawn.

On page 13, first full paragraph, Applicant argues that Montanari et al. fails to anticipate independent claims 1, 8, 9 and 18. More specifically, Applicant alleges that Montanari et al. fails to disclose, “the first stage information and the second stage information input at the second stage”, as recited in claim 1. The Examiner respectfully disagrees as will be explained in detail below. Applicant cites column 10, lines 28-38 to argue that Montanari et al. teaches away from inputting first stage information at a second stage. A thorough review of Montanari et al. proves that first stage information is inputted at a second stage. In column 11, lines 59-61, Montanari et al. states:

A printout of the information could also be transferred between parties as ownership changes. This information can be filed for future reference or entered into the new owners database.

As set forth above in column 11, lines 59-61, Montanari et al. explains that first stage information from a first owner can be transferred via a printout to the next owner and the second owner will enter first and second stage information at second stage. In contradiction to Applicant’s arguments on page 14, first paragraph, Montanari et al. does disclose that a feedlot (second stage) inputs information and identification and recording purposes that is associated with a previous stage (first stage) in the production process. It is noted that the 35 U.S.C. § 102 rejection of claim 8 by Montanari et al. is maintained for the same reasons discussed above for claim 1.

On page 14, third full paragraph, Applicant argues that Montanari et al. fails to disclose “inventory is controlled at a stage subsequent to one of the stage along the first path and the stage along the second path according to one of the recorded available inventory information associated with the first item and the recorded available inventory information associated with

the second item, respectively” as required by claim 9. The Examiner respectfully disagrees. It is noted that Montanari et al. disclose recording inventory information along the entire path of the supply chain (see column 11, lines 26-31; column 12, lines 1-5; column 14, lines 29-34; and column 15, lines 20-23).

On page 15, third full paragraph, Applicant argues that Montanari et al. fails to disclose “inventory is controlled at a stage subsequent to the stage along the first path according to the recorded available inventory information”, as recited in new claim 24. Once again, the Examiner respectfully disagrees. It is noted that Montanari et al. disclose recording inventory information along the entire path of the supply chain (see column 11, lines 26-31; column 12, lines 1-5; column 14, lines 29-34; and column 15, lines 20-23). Claim 25, is rejected for similar reasons.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

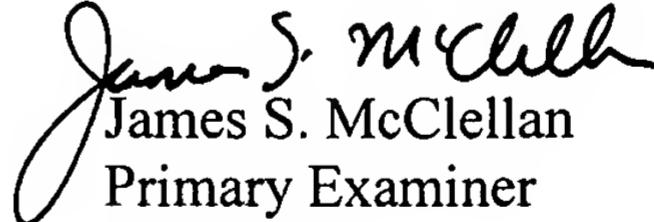
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

(703) 872-9306 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.


James S. McClellan
Primary Examiner
A.U. 3627

jsm
February 11, 2004